

Trust Company _____
Charter # _____

Date of Exam _____
Prepared By _____

ACTIVE EXEMPT TRUST COMPANY (Risk Focused) EXAMINATION PROCEDURES

EXAMINATION OBJECTIVES:

The effective planning and control of an examination is essential to the coordination and deployment of Department resources. Good planning assists the examiner-in-charge to set the examination's scope, identify potentially risky areas to be reviewed, and request specialized examiners. Planning assists the bank or trust company in preparing for the examination. The Exempt Trust Company Scoring Matrix should be completed to determine the depth of the examination. Involvement of the shareholder/family members, audit coverage (both corporate and fiduciary), types of assets administered, experience level of fiduciary asset managers, bonding insurance coverage, location of fiduciary assets, and the dollar volume and number of accounts should be considered when scoping, scoring, and examination. Trust companies that do not have internally experienced trust administrators, that do not utilize outside experienced fiduciary, investment or accounting experts will generally require more extensive examination procedures.

INSTRUCTIONS:

All examiners performing these procedures must be listed above in the "Prepared By" section. Completion of this procedure must be done electronically. All of the LEVEL I ANALYSIS should be completed. Comments and findings for each step should be made in the comment box below each question. Reference to work paper documentation should also be included here. Documentation is to be sufficient to allow an audit trail of the examiner's thought process and all significant findings.

Based on any significant/critical findings in the LEVEL I ANALYSIS or as directed by the EIC, the LEVEL II AND III ANALYSIS should also be performed. All findings in the LEVEL I ANALYSIS should be summarized in the SUMMARY OF FINDINGS section unless performance of the LEVEL II ANALYSIS or the LEVEL III ANALYSIS is warranted and then the SUMMARY OF FINDINGS is to be completed after the last applicable analysis.

The EIC should review this procedure when complete. Acknowledgement that this procedure has been reviewed by the EIC and Chief Trust Examiner (when appropriate) will be indicated on the SCOPE AND REVIEW ACKNOWLEDGEMENT FORM.

EXAMINERS ARE RESPONSIBLE FOR EXERCISING SOUND JUDGMENT AND UTILIZING REASONABLE INVESTIGATIVE AND ANALYTICAL SKILLS TO ARRIVE AT AN ACCURATE ASSESSMENT OF THE RISK PROFILE OF THIS SEGMENT OF THE INSTITUTION'S OPERATIONS. PERFORMING ALTERNATE PROCEDURES NOT LISTED WITH THESE GUIDELINES MAY BE NECESSARY TO COMPLETE THIS RISK ANALYSIS.

EXAMINATION PROCEDURES

LEVEL I ANALYSIS

Level I procedures first focus on a review of the examination scoping materials. The next step consists of interviews with trust company personnel to confirm their qualifications and levels of expertise; to determine if the trust company's practices conform to written guidelines; to establish whether any significant changes in personnel, operations or business practices have occurred; or whether new products and/or services have been introduced. If items of concern are uncovered during Level I procedures or if problems are identified during the pre-examination monitoring and scoping; the examiner may need to perform certain Level II procedures.

1a. Prepare examination scoping including:

- Review EDISON to determine that Exempt Verification Form (EVF), Report of Condition and Income (RCI) have been filed, and applicable fees paid on time (*note filing date, errors and violations in comment section*). **If the EVF and RCI are not filed on time as prescribed by statute, cite a violation of §182.013 Texas Finance Code "TFC" -Annual Certification for Exempt State Trust Company or §181.107 Texas Finance Code "TFC" - Statement of Income and Condition, respectively.**
- Complete Risk Assessment Scoring Matrix and determine Procedure Level to be completed. (*Indicate Level in the comment section.*)



Risk Assessment
Matrix



Risk-Assmt-Guide

Comment:

1b. Contact trust company representative and notify of date of examination. Discuss location of fiduciary records and ensure they will be available on site for review. **If either corporate or fiduciary records are not physically located at the trust company's office in Texas, note a violation of §17.21 Texas Administrative Code (TAC) – Physical Location of Books and Records.**

- Send Exam notification letter, Officer Questionnaire, and request list to representative. (*Indicate the date these documents are sent and the name of the contact person in the comment section.*)
- Estimate of examination fees and expenses (*Include Chief Trust Examiner approval in work papers or embed in this document*) :

Total Hours x Rate:	#	x \$75.00 =	\$
<i>Includes:</i>	<i>Prep:</i>	#	
	<i>TR</i>	#	
	<i>ITE</i>	#	
	<i>RP</i>	#	

Total Expenses:			\$
<i>Includes:</i>	<i>Mileage</i>	\$	
	<i>Meals</i>	\$	
	<i>Hotel</i>	\$	
	<i>Car Rental</i>	\$	
	<i>Air Fare</i>	\$	
	<i>Other</i>	\$	
TOTAL ESTIMATED EXAM FEE & EXPENSES			\$

Comment:

2. Review examination scoping materials related to the operations and internal controls of the trust company. Comment on any weaknesses or areas of concern. Scoping material should include:

- Most recent year-end Report of Condition and Income;
- Relevant Pre-Examination Requested Information documents;
- Previous exempt verification examination report;
- Work papers from the previous examination;
- Verify that fees are reflected as paid on EDISON;
- Examination reports of subordinate, functionally regulated entities; and
- Board of directors and other applicable committees minutes

Comment:

3. Compare address of the trust company location with the address listed on EDISON, as well as listed on the most recent annual call report, and verification of exempt status. Ascertain that management does not publicly advertise the trust company services as a public entity, such as in the media (television, radio, newspaper, magazines, printed brochures) by inquiring of management. Check the building directory and the office space and make note of the trust company listing and signage. (If the office has only minimal signage, is located with other family related offices, or in a secure office space (located off the main building lobby or in a locked office) with no other advertisement, then it is not considered advertising to the public. Additionally, if the trust company is listed in the telephone directory with no special large print or advertising space, then that is not advertising to the public.) If management discloses that the trust company is advertising or advertising is noted, cite a solicitation violation of **§182.011(a) TFC** - Exemption from Statutory Provisions for Certain State Trust Companies.

Comment:

4. Review shareholders list noting any changes since last examination and compare with stock ledger. **(Note Compliance with §182.015 Texas Finance Code - Change of Control)**. Review Shareholders Minutes and determine if Directors have been elected and signed the Oath of Acceptance (if the O&A has not been signed cite a violation of **§183.103(e) TFC – Board of Directors**), and note any other actions documented. Note the shares voted and individual voting and determine compliance with By-Laws (such as: is a majority or larger percentage required such as 2/3 vote to elect Directors). If the By-Laws are not on Document Manager, get a copy from the trust company management and have scanned and forward to the Imaging and Records Retention Administrator at Headquarters.

Comment:

5. Review Directors minutes and prepare summary page noting election of officers (if officers not elected since the appointment of Directors cite a violation of **§183.106 TFC- Officers**) , adoption of policies, Statement of Principles of Trust Management (Statement), and other pertinent actions noted (it is not a violation if policies or the Statement have not been adopted, but we strongly advise them to do so to keep the directors apprised of their responsibilities.) Note directors that are shareholders to determine if the family member shareholders have a significant presence on the Board, or if unrelated individuals provide primary management of the trust company.

Comment:

6. Assess Board of Directors and committees' structure and oversight of trust functions.

Comment:

7. Review external audit report and determine, at a minimum, that the report includes an audit of the corporate financial statement. If a fiduciary audit was included, comment on whether the minimum prudent audit guidelines were addressed (such as fiduciary asset confirmations, fee calculations and assessment, income sampling, account review, reconcilements, internal routines and controls).

(On newer charters that have an Order Granting Charter, ascertain that if an audit or audit plan was required by the Order, that compliance is noted.)

Comment:

8. Review reconcilements of corporate deposit accounts **(must have account statement from a state or nationally chartered bank or financial institution with the name of the trust company as the depositor)** and investment statements. (Determine that Corporate deposit accounts and other investment accounts are held separate from Fiduciary assets and if not then cite violation of **§161.022 of Texas Trust Code and § 183.111 of TFC - Separation of Fiduciary Assets from Corporate Assets.**)

Comment:

9. Review reconcilements of fiduciary account investments and determine where assets are held and what percentage of Fair Market Value is held by the trust company in-house. Determine that reconcilements are prepared on a regular basis (at least quarterly). Determine that fiduciary assets are correctly held in the name of the fiduciary account or in the name of the trust company as Trustee/Custodian for the

fiduciary accounts (if not cite a violation of § 161.022 of Texas Trust Code and § 183.111 of TFC - Separation of Fiduciary Assets from Corporate Assets).

Comment:

10. Review fiduciary account listing and determine that grantors and are related within the 4th degree of consanguinity as required by § 182.011 of the TFC - **Exemption from Statutory Provisions**. (See Table listed on DOBIE, click the “Bank & Trust” tab, then look under Trust Examinations in the middle right) Select a sample of accounts and have management assemble files for review. Determine that distributions and fees are taken from principal cash or income cash as applicable by the governing document and §116.201 of the Texas Uniform Principal and Income Act (codified in the Texas Trust Code) and cite a violation if not segregated. Also, determine that all account investments are properly disclosed on customer statements as required by § 113.152 of the Texas Trust Code - **Contents of Accounting**.

Comment:

11. Review insurance policy listing and determine if insurance coverage is adequate. Cite a violation of §183.112 TFC Bonding Requirements, if they don’t have coverage or a written exemption from the Department. (On newer charters that have an Order Granting Charter, ascertain if the Order allows the company to be exempt from maintaining insurance, if so, skip this procedure.)

Comment:

12. Review federal income tax and state franchise tax returns and determine if applicable taxes are paid and current.

Comment:

The completion of the Level I procedures may provide sufficient information to make a determination that no further examination procedures are necessary. If no determination can be made, proceed to Level II.

13. Complete the Summary of Findings page if not proceeding to Level II procedures.

LEVEL II ANALYSIS

Level II procedures focus on an analysis of trust company documents such as reports and outsourcing contracts. The examiner should complete the appropriate Level II procedures when the completion of Level I procedures does not reveal adequate information on which to base a conclusion that the trust company meets the examination objectives. Neither the Level I nor the Level II procedures include any significant verification procedures.

1. Review internal asset reconciliation and vault verification to determine that all marketable fiduciary assets are held by outside custodians, or safekeepers, and that only unique assets are held physically in the trust company's vault. Determine the percentage held by the trust company.

Comment:

2. Review fiduciary account portfolio listings, select a more significant sample of accounts than selected for Level I Item 10 for review including a mix of account types and assets. Concentrate on accounts with unique assets or assets that are more difficult to administer. Perform review and select additional accounts if original sample reveals significant irregularities, deficiencies, or violations.

Comment:

3. Evaluate management's plan to correct any material unresolved exceptions present in internal audit, external audit, compliance review or examination reports. Determine that internal controls including segregation of duties and dual controls are adequate.

Comment:

4. Determine if the trust company selects investments for managed accounts or if external advisors or investment managers (designate which) are utilized. If internal management is responsible for investment management, review their resumes to determine their qualifications.

Comment:

5. Discuss past fiduciary experience of the officer(s) or individual(s) responsible for account administration. Determine if internal or external legal counsel is utilized to review documents and unusual transactions.

Comment:

If the examiner cannot rely on the trust and asset management Level I and Level II procedures, or data contained in department records or internal or external audit reports, to base a conclusion then proceed to [Level III](#).

6. Complete the [Summary of Findings](#) page if not proceeding to Level III procedures.

LEVEL III ANALYSIS

Level III procedures include verification procedures that auditors usually perform. Although certain situations may require that Level III procedures be completed, it is not the standard practice of the Department of Banking examination staff to duplicate or substitute for the testing performed by auditors.

1. Verify all fiduciary assets held in the vault (whether in-house or at a bank (safe-deposit box) or other). Check fiduciary audit confirmation of vault assets. Additionally, confirm all fiduciary assets held by outside custodians, or safekeepers.

Comment:

2. Perform additional account review to determine that the majority of accounts with unique or hard to administer assets are reviewed. Discuss documentation exceptions with management.

Comment:

3. Perform additional internal controls procedures to determine that one individual does not have full control of any one transaction from beginning to end, such as authorizing distributions, issuing checks, signing checks, posting to the trust account, and reconciling the cash accounts, as well.

Comment:

4. If accounts administered include non-family accounts that do not comply with the **§ 182.011 TFC Exemption from Statutory Provisions**. (See Table listed on DOBIE, click the “Bank & Trust” tab, then look under Trust Examinations in the middle right), and are not grandfathered by charter existing prior to January 1, 2000, determine if a violation has occurred. Cite violation if needed and discuss with Trust Exam Coordinator. Review waivers of Department of Banking grandfathered non-family accounts, which are required for the exempt trust company to continue administration of the account.

Comment:

5. Determine if a full scope audit is needed to ensure corporate financials and fiduciary assets are reconciled and recorded on annual call reports correctly. Discuss with Trust Examination Coordinator, and with trust company management.

Comment:

6. Complete the [Summary of Findings](#) page.

SUMMARY OF FINDINGS

ACTIVE EXEMPT TRUST COMPANY

Describe all strengths evident from the evaluation.

Describe all weaknesses evident from evaluation, including violations of law/regulation/rules; noncompliance with Departmental policies/guidelines; internal policy deficiencies/ noncompliance; internal control weaknesses; MIS problems; and deficiencies in management supervision.

Report Worthy:

Not Report Worthy:

Determine why weaknesses exist and comment on management's response and plan of action. Identify bank personnel making the response.

NOTE: Management's response and proposed corrective action to any violations, irregularities, or deficiencies should be noted.

Provide an exempt tier score rating (Enter in box). Include supporting comments if necessary to further justify the tier rating.

Tier I

Tier II

Tier III

NR-Not Rated

Additional Supporting Comments, if needed:

Prepare Examination Report and other items from the Active Exempt Turn-In form. Image workpapers or prepare electronic files and move to Document Manager.

 [\(Return to Core Analysis\)](#)